

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BRADY KING,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:04CV1672 CDP
)	
DON ROPER,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before me on the petition of Brady King for a writ of habeas corpus under 28 U.S.C. § 2254. I referred this matter to United States Magistrate Judge Mary Ann L. Medler for a report and recommendation on all dispositive and non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1). On June 24, 2005, Judge Medler filed her recommendation that King's petition for a writ of habeas corpus be dismissed without further proceedings. On August 12, 2005, King filed his objections to Judge Medler's report and recommendation.

I have conducted de novo review of all issues in this case, and have reviewed the record, evidence, and all arguments raised by the parties. After careful consideration, I will adopt and sustain the thorough reasoning of Magistrate Judge Medler's set forth in support of her Report and Recommendation of June 24, 2005.

Petitioner's objections do not raise any new issues not considered in full by

the Magistrate Judge. Petitioner's claim of ineffective assistance of counsel¹ rests on a credibility determination made by the motion court that has been upheld by the Missouri Court of Appeals. After reviewing the record, I find no reason to set aside the motion court's determination that Petitioner's trial counsel fully informed him of his right to testify and articulated a reasonable trial strategy as to why Petitioner should not testify, and that Petitioner chose not to testify.

Likewise, Petitioner's two claims related to cross-examination must fail. The Missouri Court of Appeals concluded that the trial court's failure to allow Petitioner to elicit testimony and introduce evidence concerning two of the state's witnesses' alleged bias did not prejudice the Petitioner. As did the Magistrate Judge, I find this conclusion to be a reasonable interpretation of the facts and federal law.

Accordingly,

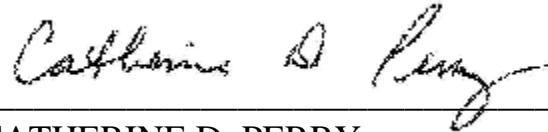
IT IS HEREBY ORDERED that the Report and Recommendation of the Magistrate Judge [# 23] be adopted in its entirety, and the petition of Brady King for a writ of habeas corpus be **DISMISSED** without further proceedings.

IT IS FURTHER ORDERED that no certificate of appealability will be issued, as none of the grounds raised present issues on which reasonable jurists

¹Petitioner's original § 2254 petition included two additional claims of ineffective assistance of counsel, grounds 1(b) and (c). As the Magistrate Judge concluded, however, these claims were never raised before the state appellate court and are therefore procedurally barred.

could differ.

A separate judgment will be entered this same date.

A handwritten signature in cursive script, reading "Catherine D. Perry". The signature is written in black ink and is positioned above a horizontal line.

CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 13th day of September, 2005.